

1 M. Belfonti

2 before the Petra loan was repaid in full?

3 A. I don't know.

4 Q. Who would know?

5 A. I'd have to understand the documents
6 and get some opinion on it.

7 Q. The documents being Exhibits 1 and 2?

8 A. No.

9 Q. What documents are you referring to?

10 A. The loan documents.

11 Q. Take a look at Exhibits 1 and 2.

12 Just humor me and take them out of the pile and
13 look at them?

14 A. One and two?

15 Q. Yes.

16 Are those the documents you are
17 referring to, Mr. Belfonti?

18 A. Yes.

19 Q. So you need to gain an understanding
20 of those documents; right?

21 A. Yes.

22 Q. And ask the opinions of your lawyers?

23 A. Yes.

24 Q. Let's go back to the alleged \$4.8
25 million BCP loan.

1 M. Belfonti

2 At the time that that loan was made,
3 was it your understanding that BCP could demand
4 repayment before the Wachovia loan was repaid in
5 full?

6 A. I'm not sure.

7 Q. What would you need to be able to
8 answer that question?

9 A. I'd have to check with my counsel.

10 Q. And get their take on Exhibits 1 and
11 2?

12 A. Yes.

13 Q. Just for the sake of completeness.

14 At the time that the alleged \$4.8
15 million BCP loan was made, did you have an
16 understanding as to whether BCP could demand
17 repayment of that loan before the Petra loan was
18 repaid in full?

19 A. I don't know.

20 Q. You need to get the views of your
21 counsel for that?

22 A. I would.

23 Q. With respect to the alleged \$500,000
24 Belfonti Holdings loan, at the time that that
25 loan was made, did you have an understanding as

1 M. Belfonti

2 to whether Belfonti Holdings could demand
3 repayment before the Wachovia loan was paid in
4 full?

5 A. I believe, yes, I could.

6 Q. Why is that, sir?

7 When you say, "I could," you believe
8 that Belfonti Holdings could demand repayment
9 before the Wachovia loan was paid in full?

10 A. By "paid in full," what do you mean?

11 Q. I mean all of the principal interests
12 and other amounts owed pursuant to the loan
13 agreement, Exhibit 1.

14 A. Yeah, these are -- yes.

15 Q. Yes what?

16 A. Yes, I believe we could demand on the
17 loans.

18 Q. Let me stick to the particular loan.
19 With respect to the alleged --
20 there's too many loans. Let's just back up.

21 With respect to the alleged \$500,000
22 Belfonti Holdings loan, the second from the top
23 on your chart there, Exhibit 6, at the time that
24 that loan was made, did you understand that
25 Belfonti Holdings could demand repayment, prior

1 M. Belfonti

2 to the time that the Wachovia loan was repaid in
3 full?

4 A. I, I'm really not sure.

5 Q. You need to consult with your lawyers
6 about that?

7 A. Yes.

8 Q. At the time that the alleged \$500,000
9 Belfonti Holdings loan was made, did you have an
10 understanding as to whether Belfonti Holdings
11 could demand repayment before the Petra loan was
12 repaid in full?

13 A. I'm not sure.

14 Q. You need to get advice from your
15 lawyers on that?

16 A. Yes.

17 Q. With respect to the alleged \$393,000
18 BCP loan, at the time it was made, did you have
19 an understanding as to whether BCP could demand
20 a repayment before the Wachovia loan was repaid
21 in full?

22 A. I'm not sure.

23 Q. You need to consult with your lawyers
24 on that?

25 A. Yes.

1 M. Belfonti

2 Q. With respect to the \$393,000 Belfonti
3 capital -- I'm sorry, the alleged \$393,000 BCP
4 loan, at the time it was made, did you have an
5 understanding as to whether BCP could demand
6 repayment before the Petra loan was repaid in
7 full?

8 A. I'm not sure.

9 Q. You'd have to consult with your
10 counsel?

11 A. Yes.

12 Q. With respect to the alleged \$1.3
13 million MCR loan, at the time that was made, did
14 you have an understanding as to whether MCR
15 could demand repayment before the Wachovia loan
16 was repaid in full?

17 A. I'd like to check with counsel.

18 Q. You would need to consult with
19 counsel in order to answer that question?

20 A. Yes.

21 Q. With respect to the alleged \$1.3
22 million MCR loan, at the time it was made, did
23 you have an understanding as to whether MCR
24 could demand repayment prior to the Petra loan
25 being paid in full?

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1 M. Belfonti

2 A. I'd like to check with counsel on
3 that.

4 Q. You need to consult with counsel in
5 order to answer that question?

6 A. Yes.

7 Q. Going back to the CEB loan, was -- I,
8 may have asked this, and if I did, I apologize.

9 Was any security given for that loan?

10 MR. MERVIS: I'm sorry, withdrawn.

11 Q. With respect to the CEB loan, the
12 alleged CEB loan, was any security given by AHE
13 for that alleged loan?

14 A. No.

15 Q. How, Mr. Belfonti, were the proceeds
16 of the alleged CEB loan used?

17 A. To pay the January '07 mortgage.

18 Q. To Wachovia?

19 A. Yes.

20 Q. So that, again, that was the payment
21 that was combined with the \$1.3 million from
22 MCR?

23 A. That is correct.

24 Q. From what source did CEB expect to be
25 repaid?

1 M. Belfonti

2 A. From AHE.

3 Q. No, I'm sorry. Where did CEB expect
4 AHE to be able to get the funds from?

5 A. Through a capital event.

6 Q. Any other source?

7 A. Cash flow of the property.

8 Q. Did AHE attempt to obtain this
9 roughly \$550,00 from any other source?

10 A. Yes.

11 Q. What source?

12 A. We had been having a dialogue with
13 Starwood Capital about lending us money since
14 early December, even before the \$499,000 loan.

15 And although they did say they would
16 consider lending it, they said that the rate
17 would be twice as high as what Petra was
18 charging. So 80 percent. So I did go and try
19 to talk to them.

20 Q. So just in a nutshell, you tried to
21 obtain some financing from Starwood Capital --

22 A. For every one of those loans, but
23 once they said no on the first one, and we -- I
24 made some other phone calls, as well.

25 Q. Mr. Belfonti, let's be clear on

1 M. Belfonti

2 something.

3 I think you just said that you sought
4 financing from Starwood Capital for every one of
5 these loans; is that what you just said?

6 A. No, after the first one; okay. After
7 the first one for a second loan of 499,950.

8 Q. Right.

9 A. And after hearing the rate and making
10 another call or two to some other lenders, it
11 wasn't evident that I was going to get the money
12 on any rate that was palatable. So I thought it
13 prudent to put up our own money.

14 Q. So Starwood indicated that it was
15 willing to provide AHE with a loan, but it was
16 going to be at an 80 percent interest rate or
17 something like that?

18 A. I think that's the word they used.
19 They said twice as bad as what Petra is paying
20 you, so --

21 Q. Approximately 80 percent, you
22 understood it to be approximately 80 percent
23 interest charge?

24 A. Very onerous terms.

25 Q. You claim that AHE sought financing

1 M. Belfonti

2 from other sources, as well; is that right?

3 A. Yes.

4 Q. But you were unsuccessful?

5 A. Correct.

6 Q. In other words, nobody other than
7 Starwood was willing to lend money to AHE at
8 this time?

9 A. I could have maybe gone to another
10 lender and pledged additional collateral and,
11 you know, done a whole bunch of things to maybe
12 get some other money, but the terms again would
13 have been very onerous.

14 Q. Pledged what collateral?

15 A. Additional collateral.

16 Q. What do you mean by "additional
17 collateral"?

18 A. Other assets that my company owns or
19 these other entities own.

20 Q. In other words, you could have gone
21 to a lender and pledged property owned by other
22 companies that you own and control; correct?

23 A. Maybe.

24 Q. Maybe. You are not talking about
25 pledging the hotel, for example?

1 M. Belfonti

2 A. No.

3 Q. That was already pledged; right?

4 A. Correct.

5 Q. Did you try do that?

6 Did you approach any lender and offer
7 to put up as collateral, assets owned by
8 companies other than AHE?

9 A. Terms would have been too onerous,
10 but I did investigate.

11 Q. Your investigation proved
12 unsuccessful?

13 A. Correct.

14 Q. Is there any writing signed by a
15 representative of AHE that memorializes the
16 alleged CEB loan?

17 A. No.

18 Q. Is there any writing by any
19 representative of CEB that memorializes the
20 alleged CEB loan?

21 A. No.

22 Q. Has CEB ever made any loans, other
23 than this alleged loan to AHE?

24 A. I'm not sure.

25 Q. Was CEB represented by counsel in

1 M. Belfonti

2 connection with the making of the CEB loan?

3 A. No.

4 Q. Was AHE represented by counsel in
5 connection with the making of the CEB loan?

6 A. No.

7 Q. Who, apart from yourself,
8 Mr. Belfonti, was aware that CEB had made a loan
9 to AHE?

10 A. Victoria Carpenter.

11 Q. How did she know that?

12 A. She posted it in the ledger.

13 Q. By the way, with respect to all the
14 alleged loans that we have been discussing
15 today, and I think for reach and every one of
16 them, you said that Ms. Carpenter posted them in
17 a corporate ledger as a loan; correct?

18 A. That's right.

19 Q. Who instructed her to do that?

20 A. I did.

21 Q. Anybody else on the CEB side of this
22 alleged loan, aware that CEB had made a loan to
23 AHE?

24 A. My mother was aware of it, I believe.

25 Q. Who told her?

1 M. Belfonti

2 A. I did.

3 Q. Who at AHE made the decision to
4 accept the alleged \$1.2 million MCR loan?

5 A. I did.

6 Q. Was there any negotiation concerning
7 the terms of the alleged \$1.2 million MCR loan?

8 A. No.

9 Q. Was there a payment schedule for the
10 alleged \$1.2 million MCR loan?

11 A. No.

12 Q. Did, at the time that you, on behalf
13 of AHE, decided to accept the alleged \$1.2
14 million MCR loan, did you obligate AHE to pay
15 interest on that loan?

16 A. I, as I had said in an earlier
17 statement, there was an implied interest that we
18 pay vis-a-vis our intercompany loans.

19 So AHE would have been obligated to
20 pay some interest rate.

21 Q. Twelve percent, according to you;
22 right?

23 A. Probably not. Probably more of a
24 market rent because of the international nature
25 of the transaction.

1 M. Belfonti

2 Q. I'm sorry, you said market -- what
3 did you say?

4 A. A market rate.

5 Q. Rate?

6 A. A market rate. I'm sorry, yes. I
7 believe that in Aruba is 8 or 9 percent.

8 Something like that.

9 Q. But at the time, you didn't have that
10 notion in your head; did you?

11 A. It wasn't my intent to earn interest.
12 It was my intent to get the money back.

13 Q. When you just gave that testimony
14 about an implied obligation to pay interest and
15 again, you used the term "we," you really mean
16 I --

17 A. I do.

18 Q. -- Michael Belfonti?

19 A. Yes, I keep saying we. And every
20 time I say we, I think we should -- it means I.

21 Q. Was there a maturity or due date for
22 the alleged \$1.2 million MCR loan?

23 A. No, there was not.

24 Q. Did AHE provide any security to MCR
25 for the alleged \$1.2 million MCR loan?

1 M. Belfonti

2 A. No.

3 Q. Did MCR place any restrictions on
4 AHE's ability to use the proceeds of the alleged
5 \$1.2 million MCR loan?

6 A. No.

7 Q. From what source or sources did MCR
8 anticipate receiving repayment of the alleged
9 \$1.2 million MCR loan?

10 A. From a capital event, such as a
11 refinance a sale or cash flow from the property.

12 Q. Did AHE attempt to secure this
13 approximately \$1.2 million from any other
14 source?

15 A. Not after we were rejected in earlier
16 transactions.

17 Q. By the earlier transactions, you are
18 referring to your effort to obtain a loan from
19 Starwood Capital; right?

20 A. That is correct.

21 Q. The one where they wanted 80 percent
22 interest?

23 A. Thereabouts.

24 Q. Your efforts to investigate other
25 potential lending sources which failed; correct?

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1 M. Belfonti

2 MR. MERVIS: Mark this, please.

3 (Belfonti Exhibit 11, a document,
4 marked for identification, as of this
5 date.)

6 Q. Mr. Belfonti, you've been handed what
7 we have had marked for identification as Exhibit
8 11.

9 Take as much time as you need, but my
10 first question to you, sir, is if you recognize
11 the document?

12 A. I do.

13 Q. When was the first time you saw this?

14 A. I would guess sometime in January of
15 2007.

16 Q. Who showed it to you?

17 A. I don't know if I ever saw this. I
18 knew about the transaction. It was associated
19 with this, but I don't know if I ever saw the
20 document itself or the letter.

21 Q. Tell me what your understanding of
22 the transaction associated with Exhibit 11 is?

23 A. My mom and dad borrowed \$550,000 from
24 my mom's trust.

25 Q. They put up their house as collateral

1 M. Belfonti

2 for that loan?

3 A. That is correct.

4 Q. Then they gave that loan, they gave
5 the proceeds of that loan to you; right?

6 A. No, they gave it to Dana Friedman.

7 Q. Right, they gave it to Dana Friedman,
8 and then you instructed Dana Friedman to send
9 that money to Wachovia Bank; right?

10 A. With the additional 1.3.

11 Q. So that you could make the mortgage
12 payment; right?

13 A. So that AHE could make the mortgage
14 payment.

15 Q. So that you could continue to own
16 AHE; correct?

17 A. That is correct.

18 Q. Just go to the second page of Exhibit
19 11?

20 There's an asterisk about halfway
21 down the page.

22 Take a moment to read that to
23 yourself and let me know when you've read it?

24 A. (The witness complies with request.)
25 Yes, I read it.

1 M. Belfonti

2 have marked as Exhibit 16.

3 Again, I will ask you if you
4 recognize it?

5 A. Yes.

6 Q. Turn to page 13, please. Is that
7 your signature, Mr. Belfonti?

8 A. It is.

9 Q. Did you sign this after reviewing all
10 of the words that came before it?

11 A. Yes.

12 Q. At the time that you signed Exhibit
13 16, did you believe that everything in it was
14 true and accurate?

15 A. Yes.

16 Q. You still believe that today?

17 A. Yes.

18 Q. By the way, Mr. Friedman has been
19 your lawyer for how many years?

20 A. Approximately 15 years.

21 Q. Do you think he's a good lawyer?

22 A. I think he's a very good lawyer.

23 Q. Do you think he's competent to
24 understand the meaning of corporate articles of
25 incorporation?

1 M. Belfonti

2 A. Yes.

3 Q. Do you have any reason to doubt his
4 ability to understand the meaning of the
5 provisions in Exhibit 17?

6 A. No.

7 Q. In fact, if you wanted to receive
8 advice about the meaning of any of the
9 provisions in Exhibit 17, Mr. Friedman would be
10 somebody who you'd be very comfortable asking,
11 would he not?

12 A. Given the fact that Exhibit 17 comes
13 from an Aruban company, I think if I asked
14 Mr. Friedman if he properly understood it and he
15 didn't, he would tell me so, and he would seek
16 other advice to make sure he had clarity on it.

17 Q. Going back to Exhibit 16, I want you
18 to turn to page 8, and I want to direct your
19 attention to paragraph 44.

20 You can read the whole thing, but I'm
21 going to direct your attention to a couple of
22 particular passages?

23 A. May I read it first?

24 Q. Absolutely. Read as much as you need
25 to read.

1 M. Belfonti

2 Q. Would you expect that judges in Aruba
3 would want to receive witness statements that
4 are accurate?

5 A. I think it is accurate.

6 Q. I will ask the question again. Who
7 are the others, Mr. Belfonti?

8 A. I don't know, but the 393 came from
9 Belfonti Capital Partners.

10 Q. In referring to the others, weren't
11 you attempting to make it seem like people other
12 than you were involved in making a supposed loan
13 to AHE?

14 A. No.

15 Q. Isn't that the reason why "others" is
16 in that sentence?

17 A. No.

18 Q. You say that you were, that you and,
19 others and you were "forced to loan AHE
20 approximately \$393,000."

21 What do you mean by
22 "forced"?

23 A. I think it just means that had we not
24 paid the \$393,000, we would have put the hotel
25 in jeopardy.

1 M. Belfonti

2 Q. What do you mean by "in jeopardy"?

3 A. We wouldn't have been able to pay the
4 mortgage.

5 Q. The effect of that, again, is that
6 you, Michael Belfonti, wouldn't own the hotel
7 anymore; right?

8 A. That is correct.

9 Q. So you had a choice to make. You
10 could pay, make the payment, hang onto the hotel
11 for another month or could you not make the
12 payment and lose the hotel; correct?

13 A. No. I had a choice to borrow money
14 of \$393,000 to pay the mortgage or not borrow
15 the money and not pay the mortgage.

16 Q. Other than the prospect of a loan
17 default by AHE, was there anything else that
18 forced you and others to make a \$393,000 loan to
19 AHE in December of 2006?

20 A. No.

21 Q. In the next sentence you say, "In
22 January 2007, we loaned AHE another \$1,855,861
23 for the same purpose"; do you see that?

24 A. I do.

25 Q. Who is "we"?